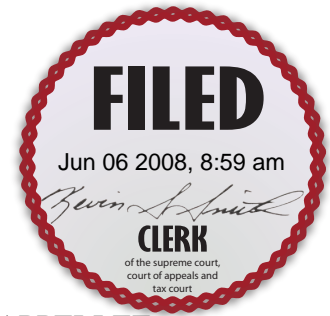


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

LORNE NEWKIRK,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0712-CR-1041

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Linda E. Brown, Judge
Cause No. 49F10-0707-CM-137907

June 6, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Lorne Newkirk appeals his conviction for class B misdemeanor battery, claiming that the evidence is insufficient to support his conviction. We affirm.

In reviewing a claim of insufficient evidence, we neither reweigh the evidence nor judge the credibility of the witnesses. *Grim v. State*, 797 N.E.2d 825, 830 (Ind. Ct. App. 2003). Instead, we look to the evidence most favorable to the judgment and the reasonable inferences therefrom. *Id.* We will affirm if there is probative evidence from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

To convict Newkirk of class B misdemeanor battery, the State had to prove beyond a reasonable doubt that he knowingly touched another person in a rude, insolent, or angry manner. *See* Ind. Code § 35-42-2-1; Appellant's App. at 15.

Here, fourteen- year old A.M. and her thirteen-year old sister, S.M., testified that they were riding their bikes in their grandmother's neighborhood in front of the fence of Newkirk's home when he reached out of the bushes and grabbed A.M.'s breast. While S.M. could not remember the date of the incident, she remembered the incident itself. The minor inconsistencies in the girls' testimony to which Newkirk directs our attention do not render the State's case insufficient but are relevant to the witnesses' credibility, which we must not judge. *See Grim*, 797 N.E.2d at 830. In any event, A.M.'s testimony alone would have been sufficient to support Newkirk's conviction. *See Stewart v. State*, 866 N.E.2d 858, 862 (Ind. Ct. App. 2007) ("A single eyewitness's testimony is sufficient to sustain a conviction."). Finally, Newkirk's reference to his testimony regarding his ongoing feud with the girls' mother is merely an invitation to reweigh the evidence, which we must decline. *See Grim*, 797 N.E.2d at 830.

Affirmed.

BARNES, J., and BRADFORD, J., concur.